

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

KARL MARX CANDELARIA,

Plaintiff,

vs.

No. CIV 18-0787 JB\GBW

CENTURIAN CORRECTIONAL MEDICAL SERVICES;
CORE CIVIC; and NEW MEXICO DEPARTMENT
OF CORRECTIONS,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER comes before the Court, under rule 41(b) of the Federal Rules of Civil Procedure, on the Prisoner's Civil Rights Complaint, filed August 16, 2018 (Doc. 1)("Complaint"). The Court will dismiss the Complaint without prejudice for failure to comply with an Order to Show Cause and for failure to prosecute this proceeding.

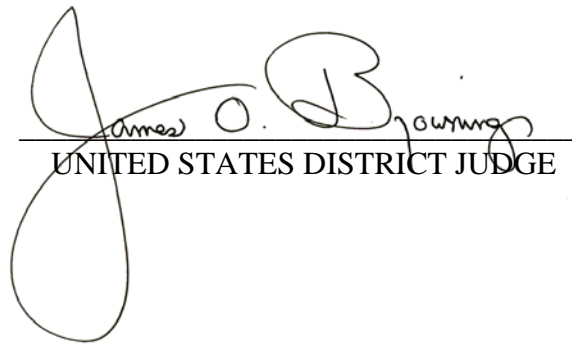
Mailings to Plaintiff Karl Marx Candelaria at his address of record have been returned as undelivered. See Mail Returned as Undeliverable re Order on Motion to Proceed 28 U.S.C. 1915, filed September 10, 2018 (Doc. 4). The Honorable Gregory B. Wormuth, United States Magistrate Judge for the District of New Mexico then issued an Order to Show Cause, filed September 12, 2018 (Doc. 5)("Show Cause Order"), directing Candelaria to notify the Court of a new address, or otherwise show cause why the Court should not dismiss his case, within twenty-one days of entry of the Show Cause Order. Show Cause Order at 1-2. Additional mail, including the copy of Magistrate Judge Wormuth's Show Cause Order mailed to Candelaria's address of record, was also returned as undelivered. See Mail Returned as Undeliverable re Order to Show Cause, filed September 19, 2018 (Doc. 6); Mail Returned as Undeliverable re Order on Motion to Proceed 28

U.S.C. 1915, filed September 20, 2018 (Doc. 7); Mail Returned as Undeliverable re Order Referring Case to Magistrate Judge, filed September 28, 2018 (Doc. 9). The Court's investigation indicates that Candelaria has been released and is no longer in custody. More than twenty-one days have elapsed since entry of the Show Cause Order, and Candelaria has not provided the Court with a new address, responded to Magistrate Judge Wormuth's Show Cause Order, or otherwise shown cause why the Court should not dismiss his case.

The United States Court of Appeals for the Tenth Circuit requires pro se litigants to follow the federal rules of procedure and simple, nonburdensome local rules. See Bradenburg v. Beaman, 632 F.2d 120, 122 (10th Cir. 1980). The local rules require litigants, including prisoners, to keep the Court apprised of their proper mailing address and to maintain contact with the Court. See D.N.M. LR-Civ. 83.6. Candelaria has not complied with D.N.M. LR-Civ. 83.6 and with Magistrate Judge Wormuth's September 12, 2018, Show Cause Order.

Candelaria has failed to comply with Magistrate Judge Wormuth's Show Cause Order and failed to prosecute this action by not keeping the Court apprised of his current address. The Court may dismiss an action under rule 41(b) for failure to prosecute, to comply with the rules of civil procedure, or to comply with court orders. See Olsen v. Mapes, 333 F.3d 1199, 1204, n.3 (10th Cir. 2003). The Court will, therefore, dismiss this civil proceeding pursuant to rule 41(b) for failure to comply with Magistrate Judge Wormuth's Show Cause Order and for failure to prosecute this proceeding.

IT IS ORDERED that the Prisoner's Civil Rights Complaint, filed August 16, 2018 (Doc. 1), is dismissed without prejudice.



James O. Downing
UNITED STATES DISTRICT JUDGE

Parties:

Karl Marx Candelaria
Northwest New Mexico Correctional Center
Grants, New Mexico

Plaintiff pro se